

**S.B. CIVIL MISC. APPEAL NO.783/2007
(Madina Bano & anr. Vs. Malkeet Singh & ors.)**

Date of Order :: 9th February 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Vineet Jain for the appellants.

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For accidental death of about 7 years old son of the appellants, the Tribunal has awarded compensation in the sum of Rs.1,53,500/- while taking notional income of the deceased at Rs.15,000/- per annum and with application of multiplier of 15 after deducting one-third on personal expenditure of the deceased and allowing Rs.2,500/- towards funeral expenses and Rs.1,000/- towards costs of litigation. By way of this appeal, the claimants seek enhancement over the amount awarded by the Tribunal.

Learned counsel Mr.Vineet Jain appearing for the claimants has strenuously contended that the amount awarded by the Tribunal remains too low and has relied upon the decision of the Hon'ble Supreme Court in the case of Lata Wadhwa Vs. State of Bihar: AIR 2001 SC 3218 particularly with reference to the observations made in paragraph 11 thereof.

Having given a thoughtful consideration to the submissions made by the learned counsel and having examined the impugned award, this Court is of opinion that in the context of age of the deceased at about 7 years and that of the parents at about 35-38 years, the amount awarded by the

Tribunal, though moderate, cannot be said to be grossly insufficient. The observations made by the Hon'ble Supreme Court in Lata Wadhwa's case (supra) in the first place cannot be directly applied for quantification of compensation in the present case; and secondly, in the observations aforesaid, the Hon'ble Supreme Court allowed lump sum compensation of Rs.1.5 lac for the victims in the age group of 5 to 10 years and allowed further Rs.50,000/- as conventional amount. The amount allowed by the Tribunal in the present case towards pecuniary loss at Rs.1,50,000/- cannot be said to be falling too short of reasonable expectations of pecuniary benefits.

In a claim for compensation under the Motor Vehicles Act, 1988, interference in appeal is called for when the amount awarded by the Tribunal could be said to be too low or grossly inadequate and not otherwise. True it is that the Tribunal has not allowed any amount towards non-pecuniary loss but on the facts of this case the ultimate amount awarded by the Tribunal cannot be said to be falling so short of just compensation as to consider enhancement in appeal.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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